

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:)	Case No. 18-80386
)	
LENT CHRISTOPHER CARR, II)	Chapter 13
DELTARINA V. CARR)	
Debtors.)	
_____)	

MOTION FOR APPROVAL OF COMPROMISE

NOW COMES Lent C. Carr, II, Debtor, pursuant to Fed. Rule Bankr. P. 9019(a), and files, and serves pursuant to Fed. Rule Bankr. P. 2002(a)(3), made applicable by Rule 9019(a), this Motion for Approval of Compromise, and in support thereof states as follows:

1. Lent C. Carr, II and Deltarina V. Carr ("Debtors") filed a voluntary petition under Chapter 13 of title 11 of the United States Code on March 20, 2018. Richard M. Hutson, II (herein "Trustee" or "Chapter 13 Trustee") was appointed as Chapter 13 Trustee to administer the Debtors' case.

2. On October 12, 2020, Debtor Lent C. Carr, II ("Plaintiff") filed a Complaint against Hoke County ("Defendant") to determine the validity of the Defendant's asserted lien against the Plaintiff's real property at 3300 Laurinburg Rd, Raeford, NC, and to seek disallowance of the associated secured claim.

3. Jurisdiction is vested in this Court over this adversary proceeding pursuant to 28 U.S.C §§ 157, 532, and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B) and (b)(2)(K). Venue is proper under 28 U.S.C. § 1409(a).

4. In order to avoid the uncertainty and cost of further litigation, Plaintiffs and Defendant, (collectively the "Parties"), have negotiated and agreed, with the consent of the Chapter 13 Trustee,

to resolve the issues set forth in the Complaint, and being litigated in the adversary proceeding, according to the terms set forth in the Settlement Agreement, a copy of which is attached hereto as Exhibit A. The Settlement Agreement further calls for the entry of a consent order, attached as Exhibit B, upon the payment of certain funds under the Settlement Agreement.

5. The Debtor requests that if no objection is filed to this Motion, then the Court enter an Order allowing this Motion, and upon tender by the parties, enter the Consent Order in both the adversary proceeding and in this case without the necessity of a hearing.

WHEREFORE, the Debtor respectfully moves the Court to enter an Order granting this Motion, and upon tender, enter the Consent Order as the final judgment in the adversary proceeding, and grant such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 5th day of April, 2022

s/ Erich M. Fabricius
Erich M. Fabricius, NC State Bar No. 39667
Attorney for Debtor
Fabricius & Fabricius PLLC
P.O. Box 1230, Knightdale, NC 27545-1230
Telephone: 919-295-6001 Fax: 919-890-3833
Email: emf@fabriciuslaw.com

EXHIBIT A

Settlement Agreement

1. Parties and Background

- (a) Lent C. Carr, II is the Debtor in a Chapter 13 bankruptcy case (no. 18-80386) (the “Chapter 13 Case”), and the Plaintiff in an adversary proceeding Carr v. County of Hoke, no. 20-09020 (the “Adversary Proceeding”). Hoke County is the Defendant in the adversary proceeding, and creditor in the Chapter 13 bankruptcy. Richard M. Hutson, II is the duly appointed Chapter 13 trustee.
- (b) Mr. Carr initiated the Adversary Proceeding on October 12, 2020, seeking a determination that no tax lien exists as to property taxes associated with the years 2014, 2015, 2016, and 2017 on his property at 3300 Laurinburg Rd., Raeford, NC (the “Property”). The Adversary Proceeding further sought disallowance of Claim #3 filed in the Chapter 13 Case by Hoke County.
- (c) On November 19, 2021, the Court entered an order on cross motions for summary judgment which granted the relief sought by plaintiff in part, namely that amounts in Claim #3 were disallowed to the extent they related to 2015 and 2016 taxes, and that no lien was associated with those taxes. For the 2015 and 2016 taxes, Claim #3 included principal in the amount of \$8,491.65 and interest in the amount of \$691.98. Claim #3 includes \$3,962.35 in principal and \$168.40 in interest on the 2017 taxes which have yet to be adjudicated by the Court.
- (d) The Trustee has paid \$12,555.00 to Hoke County on account of claims filed in the Chapter 13 Case. With the partial disallowance of Claim #3, Hoke County has been overpaid and the Chapter 13 estate has a right to seek repayment of funds.

2. Compromise of Dispute

Parties to this agreement acknowledge that a dispute remains as to the amount and liability for payment of 2017 property taxes on the Property. Without admissions as to existence of this liability, parties desire to compromise to avoid uncertainty and

avoid continuing legal costs. No party to this agreement makes any admission of liability.

3. Covenants by Lent C. Carr, II

In consideration of the other covenants and terms set out in this agreement, Lent C. Carr, II agrees to:

- (a) Pay \$386.76 to Hoke County, no later than April 21, 2022, in care of their counsel to the Adversary Proceeding.
- (b) Pay \$1,283.00 to the Chapter 13 Trustee, no later than April 21, 2022.
- (c) Release all claims asserted in the Adversary Proceeding and resolved by the November 19, 2021 order, including specifically agreeing that the \$3,962.35 in 2017 taxes is a proper and allowable claim against the bankruptcy estate.
- (d) Consent to the payment of all allowed general unsecured claims in the Chapter 13 Case as a result of the additional payment provided in (b) above.
- (e) Consent to entry of an order substantially in the form of Exhibit A.

4. Covenants by Hoke County

In consideration of the other covenants, payments, and terms set out in this agreement, Hoke County agrees to:

- (a) Release all claims against Mr. Carr or the bankruptcy estate for taxes (including interest, charges, fees, and costs) associated with all taxes years 2021 and earlier as to the Property (parcel ID 39413-00-01-095) as well as to the property located at 521 Gatlin Farm Rd (parcel ID 69446-00-01-055).
- (b) Voluntarily dismiss the civil action in Hoke County: County of Hoke v. Lent Carr et al, 18 CVD 31.
- (c) Consent to entry of an order substantially in the form of Exhibit A once funds have been received under ¶3(a).

5. Covenants by the Bankruptcy Estate

In consideration of the other covenants, payments, and terms set out in this agreement, the Bankruptcy Estate, Richard M. Hutson, II, Trustee, agrees to:

- (a) Release any claim against Hoke County for repayment of funds disbursed in reference to the Chapter 13 Case.
- (b) Consent to entry of an order substantially in the form of Exhibit A once funds have been received under ¶3(b).

6. Attorney Fees and Costs

Each party to this agreement shall bear their own attorney fees and costs.

7. Entire Agreement

This Agreement and any exhibits shall constitute the entire agreement of the Parties with respect to their settlement, and shall supersede all prior oral or written agreements, understandings, representations, and warranties between the Parties as to the terms of the settlement.

8. Negotiated Settlement Agreement

In the event of any dispute over the interpretation of this Agreement, there shall be no rule of construction requiring that the Agreement be construed in favor of or against any of the Parties.

9. Notices and Enforcement.

In the event any party believes there is a default under this agreement, notice must be provided to counsel of record with an opportunity to cure the default. The Bankruptcy Court for the Middle District of North Carolina retains jurisdiction to enforce this agreement.

10. Settlement Subject to Approval

This Agreement is subject to approval of the Bankruptcy Court after notice and hearing pursuant to Bankruptcy Rule 9019.

Lent C. Carr, II.

Date: _____

Lent C. Carr, II.

Hoke County

Date: _____

Allen Thomas, Jr.

Chairman, Hoke County Board of Commissioners

Chapter 13 Trustee

Date: _____

Richard M. Hutson, II

Chapter 13 Trustee

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

IN RE:)	Case No. 18-80386
)	
LENT CHRISTOPHER CARR, II)	Chapter 13
DELTARINA V. CARR)	
Debtors.)	
_____)	
LENT CHRISTOPHER CARR, II)	Adversary Proceeding
Plaintiff.)	No. 20-09020
)	
v.)	
)	
COUNTY OF HOKE)	
Defendant.)	
_____)	

CONSENT ORDER

An order has been entered by the Court approving the compromise of this adversary proceeding. Pursuant to the terms of that compromise, the parties to the compromise consent to the entrance of this order, and by such consent represent that the funds required to be tendered by the Debtor to Hoke County and to the Trustee have been actually tendered.

THEREFORE, IT IS HEREBY ORDERED AND DECREED that:

- (1) Claim #3 as filed by Hoke County is disallowed except to the extent of \$3,962.35 for 2017 taxes and such claim has been paid. Furthermore, Claim #3 is amended to allow a claim for post-petition taxes in the amount of \$8,483.74 which has been received and paid by the

Trustee. As a result, the amended claim #3 is allowed in the total amount of \$12,446.09.

- (2) No Hoke County tax lien exists against the property at 3300 Laurinburg Rd., Raeford, NC for 2014, 2015, 2016, or 2017 property taxes; furthermore, the property taxes assessed by Hoke County for 2018, 2019, 2020, and 2021 associated with this property have been paid as pursuant to the compromise.
- (3) All allowed general unsecured claims in the case will be paid in full. The Trustee is authorized use funds from the \$1,283.00 paid by the Debtor under this compromise to pay remaining allowed general unsecured claims.
- (4) This order resolves all outstanding matters in this adversary proceeding, and the clerk shall close the adversary proceeding.
- (5) A copy of this order will also be entered in the Chapter 13 case, no. 18-80386, to aid in the administration of the plan.

CONSENTED TO:

Erich M. Fabricius, NC State Bar No. 39667
Attorney for Lent C. Carr, II
P.O. Box 1230, Knightdale, NC 27545-1230
Tel: 919-295-6001 Fax: 919-890-3833

Richard W. Andrews, NC State Bar No. 44177
Attorney for Hoke County
P.O. Box 2888, Greensboro, NC 27401
Tel: 336-271-5219 Fax: 336-274-6590

Richard M. Hutson, II, NC State Bar No. 2282
Chapter 13 Trustee
P.O. Box 3613, Durham, NC 27702
Tel: 919-688-8065

END OF DOCUMENT

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:

LENT CHRISTOPHER CARR, II
DELTARINA V CARR

CASE NO: 18-80386

**DECLARATION OF MAILING
CERTIFICATE OF SERVICE**

Chapter: 13

On 4/5/2022, I did cause a copy of the following documents, described below,
Motion for Approval of Compromise

to be served for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing list exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

I caused these documents to be served by utilizing the services of BK Attorney Services, LLC d/b/a certificateofservice.com, an Approved Bankruptcy Notice Provider authorized by the United States Courts Administrative Office, pursuant to Fed.R.Bankr.P. 9001(9) and 2002(g)(4). A copy of the declaration of service is attached hereto and incorporated as if fully set forth herein.

Parties who are participants in the Courts Electronic Noticing System ("NEF"), if any, were denoted as having been served electronically with the documents described herein per the ECF/PACER system.

DATED: 4/5/2022

/s/ Erich M. Fabricius
Erich M. Fabricius 39667
Attorney for Debtor
Fabricius & Fabricius PLLC
PO Box 1230
Knightdale, NC 27545
919 295 6001
emf@fabriciuslaw.com

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:

LENT CHRISTOPHER CARR, II
DELTARINA V CARR

CASE NO: 18-80386

**CERTIFICATE OF SERVICE
DECLARATION OF MAILING**

Chapter: 13

On 4/5/2022, a copy of the following documents, described below,
Motion for Approval of Compromise

were deposited for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing list exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

The undersigned does hereby declare under penalty of perjury of the laws of the United States that I have served the above referenced document(s) on the mailing list attached hereto in the manner shown and prepared the Declaration of Certificate of Service and that it is true and correct to the best of my knowledge, information, and belief.

DATED: 4/5/2022



Jay S. Jump
BK Attorney Services, LLC
d/b/a certificateofservice.com, for
Erich M. Fabricius
Fabricius & Fabricius PLLC
PO Box 1230
Knightdale, NC 27545

PARTIES DESIGNATED AS "EXCLUDE" WERE NOT SERVED VIA USPS FIRST CLASS MAIL (D) FOR NO CLARITY ADDRESS
 PARTIES WITH A '+' AND DESIGNATED AS "CM/ECF E-SERVICE" RECEIVED ELECTRONIC NOTICE THROUGH THE CM/ECF SYSTEM

CASE INFO

LABEL MATRIX FOR LOCAL NOTICING
 NCRS ADDRESS DOWNLOAD
 CASE 18-80386
 MIDDLE DISTRICT OF NORTH CAROLINA
 TUE APR 5 11-18-51 PST 2022

(P)COUNTY OF HOKE
 ATTN DAPHNE GRAHAMDUDLEY
 PO BOX 217
 RAEFORD NC 28376-0217

~~EXCLUDE~~

~~DURHAM~~
~~PO BOX 26100~~
~~GREENSBORO NC 27402-6100~~

ACSBOA
 PO BOX 7060
 UTICA NY 13504-7060

AMCOL SYSTEMS INC
 PO BOX 21625
 COLUMBIA SC 29221-1625

ATT
 1801 VALLEY VIEW LN
 DALLAS TX 75234-8906

ATT CORP
 ATT SERVICES INC
 KAREN CAVAGNARO ESQ
 ONE ATT WAY ROOM 3A104
 BEDMINSTER NJ 07921-2693

CONVERGENT OUTSOURCING
 PO BOX 9004
 RENTON WA 98057-9004

CREDITORS COLLECTION SERVICE
 4530 OLD COVE SPRING RD
 COVE SPRING VA 24018-3423

DISH NETWORK
 9601 S MERIDIAN BLVD
 ENGLEWOOD CO 80112-5905

DIVERSIFIED CONSULTANTS INC
 10550 DEERWOOD PARK BLVD 309
 DOUNTROON FL 32256-2805

DUKE ENERGY
 PO BOX 70515
 CHARLOTTE NC 28272-0515

HICKS MOTOR SALES
 532 HILLSBORO ST
 OXFORD NC 27565-3283

HOKE COUNTY DISTRICT ATTORNEY
 231 N MAIN ST
 RAEFORD NC 28376-2805

~~EXCLUDE~~

~~(D) (P)COUNTY OF HOKE~~
~~ATTN DAPHNE GRAHAMDUDLEY~~
~~PO BOX 217~~
~~RAEFORD NC 28376-0217~~

INTERNAL REVENUE SERVICE
 PO BOX 7346
 PHILADELPHIA PA 19101-7346

JANNETTA JORDAN
 4160 LAURINBURG ROAD
 RAEFORD NC 28376-7250

KROGER
 1014 VINE ST
 CINCINNATI OH 45202-1100

MARINER FINANCE LLC
 1333 SCOTLAND CROSSING DR
 LAURINBURG NC 28352-5414

(P)MEADE ASSOCIATES INC
 ATTN BANKRUPTCY DEPARTMENT
 737 ENTERPRISE DRIVE
 LEWIS CENTER OH 43035-9438

~~EXCLUDE~~

~~(D) (P)MEADE ASSOCIATES INC~~
~~ATTN BANKRUPTCY DEPARTMENT~~
~~737 ENTERPRISE DRIVE~~
~~LEWIS CENTER OH 43035-9438~~

NEW SOUTH FINANCE
 2107 CHESTER RIDGE DR
 HIGH POINT NC 27262-7690

NORTH CAROLINA DEPT OF REVENUE
 OFFICE SERVICES DIVISION
 BANKRUPTCY UNIT
 PO BOX 1168
 RALEIGH NC 27602-1168

ONLINE COLLECTIONS
 PO BOX 1489
 WINTERVILLE NC 28590-1489

(P)SCANA AND SUBSIDIARIES
 220 OPERATION WAY
 MAIL CODE C 222
 CAYCE SC 29033-3701

PAYLIANCE
 EASTERN ORAL STE 120
 COLUMBUS OH 43219

PITT COUNTY TAX COLLECTOR
 PO BOX 43
 GREENVILLE NC 27835-0043

PARTIES DESIGNATED AS "EXCLUDE" WERE NOT SERVED VIA USPS FIRST CLASS MAIL (D) FIRST CLASS ADDRESS
 PARTIES WITH A '+' AND DESIGNATED AS "CM/ECF E-SERVICE" RECEIVED ELECTRONIC NOTICE THROUGH THE CM/ECF SYSTEM

RALEIGH RADIOLOGY ASSOCIATES INC
 PO BOX 2090
 MORRISVILLE NC 27560-2090

RUDOLPH K SMITH
 RKS LAW
 PO BOX 2095
 FAYETTEVILLE NC 28302-2095

WAKEMED
 PO BOX 29516
 RALEIGH NC 27626-0516

WILSON UTILITIES
 208 NASH ST E
 WILSON NC 27893-3802

DELTARINA V CARR
 3300 LAURINBURG RD
 RAEFORD NC 28376-7204

EXCLUDE

~~ERICH M FABRICIUS
 FABRICIUS FABRICIUS PLLC
 PO BOX 1230
 KNIGHTDALE NC 27545-1230~~

EXCLUDE

~~(D) JANNETTA JORDAN
 4160 LAURINBURG ROAD
 RAEFORD NC 28376-7250~~

DEBTOR

LENT CHRISTOPHER CARR II
 3300 LAURINBURG RD
 RAEFORD NC 28376-7204

RICHARD M HUTSON II
 TRUSTEE
 3518 WESTGATE DRIVE
 SUITE 400
 DURHAM NC 27707-2560

WILLIAM P MILLER
 BANKRUPTCY ADMINISTRATOR
 101 SOUTH EDGEWORTH STREET
 GREENSBORO NC 27401-6024

ADDRESSES WHERE AN EMAIL IS PRESENT WERE SERVED VIA ECF HEREIN FOR THE UNITED STATES BANKRUPTCY COURT'S NOTICE OF ELECTRONIC FILING ("NEF") SYSTEM.

(Bankruptcy Administrator)
William P Miller
Bankruptcy Administrator
101 South Edgeworth Street
Greensboro, NC 27401

(Creditor)
Jannetta Jordan
4160 Laurinburg Road
Raeford, NC 28376

(Trustee)
Richard M. Hutson, II
Trustee
3518 Westgate Drive
Suite 400
Durham, NC 27707

Nicole_farabee@ncmba.uscourts.gov

office@cl3dur.com

(Creditor)
Hoke County Tax Collector
P O Box 217
Raeford, NC 28376
represented by:
Grady Lee Hunt
Hunt & Brooks
PO Box 999
203 College Street
Pembroke, NC 28372

(Debtor)
Lent Christopher Carr, II
3300 Laurinburg Rd.
Raeford, NC 28376
represented by:
Erich M. Fabricius
Fabricius & Fabricius, PLLC
P.O. Box 1230
Knightdale, NC 27545-1230

emf@fabriciuslaw.com

(Joint Debtor)
Deltarina V. Carr
3300 Laurinburg Rd.
Raeford, NC 28376
represented by:
Erich M. Fabricius
Fabricius & Fabricius, PLLC
P.O. Box 1230
Knightdale, NC 27545-1230

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gradyh@huntbrookslaw.com